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ABSTRACT

This bibliography is intended for anyone who is interested in learning about language and law, including those in the legal profession or legal education, linguistics students, political science students, judges, advocates, and laypeople. The document provides bibliographic information about social science research on language in the judicial process and analyzes the language spoken in legal settings, the language written for legal purposes, and laws that are about language. A second component of the document consists of the contributions of linguistics and language scientists to the resolution of actual legal cases. (RJC)

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TEACHING RESOURCE Bulletin NO. 4

LANGUAGE AND LAW

A Bibliographic Guide to Social Science Research in the U.S.A.

BY JUDITH N. LEVI

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A Bibliographic Guide to Social Science Research in the U.S.A.

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American Bar Association

Commission on College and University Legal Studies

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INTRODUCTION

INTENDED AUDIENCE, INTENDED SCOPE

Intended audience. This bibliography is intended for anyone who is interested in learning more about language and law, from law professors to legal philosophers, from undergraduate linguistics majors to graduate students in political science, from laypeople to professors to judges, and from consumer advocates to public defenders and corporate attorneys. All these groups have good reasons to become more fully informed about how the interactions of language and law matter—professionally, publicly, and personally.

The domain of "language and law" which is encompassed in these pages is really twofold. Its primary component consists of contemporary social science research on language in the judicial process; this material analyzes the language spoken in legal settings, the language written for legal purposes, as well as laws which are *about* language. A secondary component consists of "forensic linguistics," a term which is used in this work to denote the contributions of linguists and other language scientists to the resolution of actual legal cases. (Some people use "forensic linguistics" as a broader term, encompassing the entire domain of "language and law." However, I find it more useful, and more coherent, to limit the scope of the term as I have just specified; this parallels the use of such terms as "forensic psychiatry" or "forensic anthropology" which denote the *application* of a field of inquiry to legal cases.)

This bibliography is a natural sequel to a more limited document which I compiled and published in 1982 (*Linguistics, Language, and the Law: A Topical Bibliography*, Indiana University Linguistics Club) but which is now out of print—as well as out of date. The replacement of the earlier title by the broader conjunction of *Language and Law* in the present work is intended to reflect the characteristically and vigorously interdisciplinary body of scholarship that has emerged in this field in the last two decades, to which linguistics has contributed only one of many parts. Since this version is about three times as long—and as deep—as its predecessor, I hope that its usefulness to scholars and students in the field will similarly multiply.

Intended scope. In compiling this work, I have preserved the same general constraints on content that I imposed on its predecessor in 1982. That is, the primary focus is on *social science* research on language and law in the United States, as carried out by these kinds of social scientists: anthropologists, linguists, political scientists, psychologists, sociologists, and various combinations thereof. One consequence is that this work, which contains only a small number of law review articles, must be viewed as a complement to, but not a substitute for, the resources available in any reasonably-sized law library. My reasons for restricting the scope of the present work in this way are the same as those I noted in the Introduction to my 1982 bibliography:

> I have made no attempt to do the Herculean task of searching the legal literature for the truly voluminous output of lawyers' writing on language. In the first place, it would be difficult in many cases to say where the writing on law leaves off and the writing on language alone begins; much of the best and most insightful analysis of language and language use by lawyers and jurists is embedded in primarily legal argumentation and commentary, which would not be comprehensible to the linguist wholly untrained in law. Second, I saw no need to attempt to duplicate (or rather, ineptly imitate) what any competent law librarian could do for the inquiring linguist. Third, the style, perspective, and priorities of law professors and judges, whose analyses and opinions constitute most of the source material, are normally so different from those of the linguist or social scientist that I would expect the latter to emerge as perplexed and/or acutely dissatisfied as I did after sampling some of the writing by lawyers that does focus explicitly on language analysis and language use (Levi 1982:iv).

In light of the above, readers would do well in many cases to supplement the listings provided here with those to be found in the *Index to Legal Periodicals* (presumably available in the reference section of any university or local library).

For a variety of reasons, I have also made no attempt to draw on, and thereby duplicate, the extensive bibliographic resources available in the published literature from the fields of communication studies, rhetoric, and literary studies, although some representatives of each of these resources have found their way into the entries below.

As for *geographical* restrictions, the primary locus of attention remains the legal system of the United States, although some publications from other countries (primarily those connected to the Anglo-American legal system, such as Australia, Canada, and the U.K.) have been included for their intrinsic interest and apparent relevance to research of U.S. scholars. Moreover, since the domain of language and law seems to have been most widely explored in the United States, I have been sympathetic to the concerns of scholars abroad working on language and law who wish to establish mutually productive connections with U.S. researchers with shared interests. One way to contribute to improved communication within this worldwide scholarly community is to include some of the significant studies from abroad in the present work, although I can make no claim to comprehensiveness or even systematicity in regard to the work on language and law in other countries that is included in these pages.

Sources for the entries and their placement. My primary sources for the entries in this work have been:

1) its 1982 predecessor

2) responses to questionnaires I sent in 1990 to 120 researchers in language and law
3) references culled from others' publications
4) two computer searches (of the Social Sciences Citation Index, and Language and Language Behavior Abstracts).

In categorizing these hundreds of entries, I used whatever background knowledge I had of the subject, author, and entry source; however, in many cases I had little to go on but title alone. This is certain to be the cause of some misleading or erroneous categorizations, for which I apologize to the authors of the entries and readers of this work.

Sequencing of major topics. The sequencing of major topics in this work (corresponding to Parts I. through VI. of the organizing outline) has both historical and substantive motivation. The historical fact is that the three most important and extensive sections of this bibliography (Parts I., II., and III. below) correspond to the tripartite division of research which I introduced in my 1982 bibliography: spoken language in legal settings, language as a subject of the law, and written language of the law. Added to these broad categories are a number of newer but smaller ones: speech act and semiotic analyses of legal language (Part IV.), overviews and collections (Part V.), and forensic linguistics (Part VI.).

Returning to the first three Gresearch groupings, let us note to begin with that their sequencing reflects the relative magnitude of published work in each area. Thus, the first major subdivision of the bibliography corresponds to the area which encompassed in 1982, and which continues to encompass today, the largest amount of research: *spoken language in legal settings*. What has changed in this particular domain is that its scope has been broadened by a few researchers who have gone beyond the public arena of the trial courtroom to study naturally occurring speech in other settings, such as plea bargaining negotiations and the lawyer-client interview.

We may note, however, that it is both ironic and even a bit perverse for the largest amount of scholarly work on spoken language in legal settings to be centered on the legal arena in which the *fewest* legal cases are actually settled (in court), while the two arenas in which the *most* legal cases are disposed of—in lawyers' offices, for civil cases, and in plea bargaining negotiations, for criminal cases—have received the least attention. While it is essential for us to observe the existence and significance of this remarkable asymmetry, I leave it to others to explain its etiology.

The second major category of research pertains to *laws about language*, and it is now running a close second in quantity to the first category of spoken language. The inventory of topics in Part II. is quite diverse, ranging from legal issues concerning linguistic minorities to what linguist Roger Shuy has aptly called "language crimes" (in his 1993 book of that title), and from the relatively practical issues characterizing the domain of consumer protection to the relatively philosophical issues that arise in discussions of First Amendment law and judicial concepts of linguistic authority.

Although the *written language of the law* (Part III.) may well be the most well-known, and probably the most infamous, aspect of law and language in the public consciousness, I deliberately subordinated it by listing it last in my 1982 bibliography, and only in third place here. My purpose was to emphasize that what was familiar to most laypeople was not necessarily what was most significant, either in terms of intrinsic interest or in terms of research output. Thus, in separating the work on the written language of the law from its natural sibling, spoken language of the law, I sought to draw a contrast between the subjects attracting the most contemporary scholarly attention (spoken language) and the least (written language). This quantitative relationship has persisted, in that the listings in the written language section are only about half as numerous as those in either the spoken language section (Part I.) or the section on laws about language (Part II.).

The three remaining sections of the bibliography correspond to categories whose entries, while not nearly as numerous as the three major groupings just discussed, still have expanded sufficiently in the last decade to justify being grouped in independent sections. Thus, Part IV. includes two somewhat specialized types of linguistic analyses which have come into increasing prominence in the analysis of language and law in the last decade: *speech act analyses* and *semiotic analyses* of legal language. Part V. groups together *overview articles and collections*, for the convenience of readers who want to survey the literature, and for teachers who want to consider appropriate readings for an introductory course on language and law. Finally, Part VI. presents the rapidly growing area of *forensic linguistics*; listings here include both reports of trial testimony by language scientists, and a limited number of articles focusing on issues concerning expert testimony (especially by social scientists) per se.

HISTORICAL BACKGROUND IN BRIEF

The earlier years. Until the 1970's, there was no academic field of "language and law" to speak of, neither from the perspective of legal scholarship nor from that of social science—despite the ready availability of Law Professor David Mellinkoff's now classic study, *The Language of the Law* (Little, Brown, 1963). This began to change in the 1970's, however, when a few social scientists (including those who formed the interdisciplinary Duke University Law and Language Project in the mid-1970's) began to recognize and appreciate the critical role that language plays in legal interactions, legal processes, and legal development—and to study that role empirically. As a result, by 1982 there was enough published scholarship to provide some 400 entries for the 1982 forerunner to this work. It was a sturdy beginning.

In 1985, the nascent community of language and law

scholars took a large collective step forward, when a three-day conference called "Language in the Judicial Process" was held at Georgetown University, co-organized by two linguists (Anne Graffam Walker and myself) with funding from the National Science Foundation. This was the first (and still the only) national conference in the U.S.A. ever to be devoted solely to the subject of social science research on language and law. Two of the significant consequences of the conference were (1) the bringing together for the first time of a set of leading researchers on language and law, whose disciplinary diversity had previously kept them apart; and (2) the publication of the first volume of social science research papers in this domain (*Language in the Judicial Process*, edited by Judith N. Levi and Anne Graffam Walker, Plenum, 1990).

The eight years since that conference have seen a flowering of scholarly activity, of which the length and range of the current work gives more than ample evidence. Indeed, in just the last five years (since 1988) the proceedings from two more conferences on language and law have been published (*The Language Scientist as Expert in the Legal Setting: Issues in Forensic Linguistics*, edited by Robert W. Rieber and William A. Stewart, New York Academy of Sciences, 1990, with a focus on forensic linguistics; and *Language and Law: Proceedings of the First Conference of the International Institute of Comparative Linguistic Law*, edited by Paul Pupier and Jos Woehrling, Wilson & Lafleur [Montreal], 1989, with a focus on language minorities). In addition, over a dozen full-length books that are *not* collections have appeared (see "Suggestions for Beginning Readings" below for a sampling thereof), with several more on their way to publication; and it has become commonplace for there to be a dozen or more papers on language and law at the annual meetings of the Law and Society Association, where the previous decade had seen next to none.

It thus appears that the adjectives of choice to describe the field have changed from "nascent" and "long-overdue" to "thriving," "vigorous," and "expansive." (For a historical commentary more detailed than these three adjectives, the reader is referred to my chapter, "The Study of Language in the Judicial Process" (especially pp. 7-11) in *Language in the Judicial Process*, edited by Judith N. Levi and Anne Graffam Walker, Plenum, 1990.)

Developments of the last decade. The most obvious historical change that has taken place since the publication of the 1982 bibliography is a quantitative one: an overall tripling of scholarly resources. Thus, while the 1982 bibliography contained approximately 400 entries, the current work has more than tripled in length to approximately 1350 entries. (Both numbers includes some duplication, since entries relevant to more than one category received multiple listings.)

From another quantitative perspective, in 1982 I was very limited in what I could recommend as beginning readings in the area; I explicitly mentioned one 1930 dissertation, one twenty-year-old volume, a legal reference work, and the only two overview articles then in existence—and only the last two were by contemporary social scientists. [The works in question were: Bryant 1930/1962, Mellinkoff 1963, *Words and Phrases*, and Danet 1980 and O'Barr 1981.]

What a contrast to the present situation! This time around, my "beginner's list" (see "Suggestions for Beginning Readings" below) is far richer, since the relevant resources have expanded remarkably, permitting me to add the first two anthologies on the subject, eight full-length books, and 3 special journal issues. And this is just the material I would recommend for starters.

Not surprisingly, there have also been significant qualitative shifts in the focus of contemporary research in this area. For example, the outline which organizes the current work includes a number of brand-new topics, each of which encompasses a significant amount of published work from just the last decade. These more recently developed topics include (in order of appearance in this work):

—courtroom reporting and the verbatim transcript
—the language of plea bargaining
—lawyer-client discourse
—court interpreters in the bilingual courtroom
—legal issues in public education for speakers of Black English
—the English Only movement
—speech act and semiotic analyses of legal discourse
—forensic linguistics (i.e., reports on courtroom testimony by language experts).

This last category has seen an especially striking expansion of published material. In 1982 I was aware of fewer than a dozen published reports, and only a handful of unpublished manuscripts, concerning the experience of linguists and other language scientists who had served as expert witnesses. In marked contrast, the current work lists over 100 such entries (including 25 from outside the U.S.A.), ranging from the conversational analysis pioneered by Roger Shuy to the controversial areas of speaker and author identification, and from ESL [English as a Second Language] language assessment of criminal defendants to the use of historical dialectology in settling Native American land claims. The expansion of the literature in this area is, of course, a sign of the increasing frequency with which attorneys and litigants are turning to linguists and other language scientists for assistance in legal cases. Moreover, the actual frequency is likely to be far higher than even the published work would indicate, since my evidence suggests that many more academics have had some experience in this sort of legal consulting than have taken the time to write it up subsequently for publication.

However, even for subjects which did appear in the 1982 bibliography, the tripling and even quadrupling of research output in these areas since 1982 means that these subjects have developed new dimensions and new approaches which were not yet evident in 1982. For exam-

ple, while the analysis of courtroom speech was a prominent component of the earliest research, its scope has broadened in recent years. Thus, the present work lists such new topics as "storytelling as a model of courtroom testimony," and the broad grouping of "analyses of genres of courtroom speech"; within the latter may now be found studies of spoken language from a wider variety of legal settings and events, including pre-trial argument, changes of plea, the voir dire, cross-examination, and jury summation.

In the context of *laws pertaining to language*, the section on the rights of linguistic minorities has shown the greatest growth of all, having quadrupled in size since 1982. Among the new topics appearing in this category are:

—public education issues for speakers of Black English
—language assessment in criminal cases for defendants who are non-native speakers of English
—the effects of court interpreting on the judicial process
—cross-cultural and interethnic communication problems in legal settings
—the English Only movement.

Another subject which is starting to draw more scholarly attention (though not listed separately here) is the testimony of child witnesses. The linguistic issues raised in this domain pertain not only to the language of the children themselves, but also to the language addressed to them both before and during the trial; as might be expected, these issues center on credibility and suggestibility. (A limited number of references on this topic may be found in Sections I.C.2., I.E.3., and I.K.

On the other hand, some subjects have shown surprisingly little growth in the past decade, despite what I regard as their intrinsic interest and significant potential for fruitful scholarly analysis. These include the subjects of discourse among lawyers in non-formal settings (although quantitatively, such discourse overwhelms the courtroom discourse that is the major focus of contemporary research on "law talk"), definitions of verbal offenses (in terms of speech act theory or otherwise), regulation of advertising language, the challenges of crosscultural communication in legal contexts, and language issues relating to the First Amendment. Nevertheless, because of their promise as significant research foci for sociolegal studies, they have been retained in the organizing outline, and the body, of this bibliography.

Finally, in regard to the very salient topic of *gender*, I confess that I have as yet been unable to find very much written by social scientists (as opposed to those who take a more literary or rhetorical approach—a distinction I may be making at some peril nowadays) on the role that gender plays in the interplay of law and language. Although there is a great deal appearing on gender issues in law that are *not* directly tied to language, I know of no empirical studies that focus on such questions as whether the speech of attorneys varies in significant ways by gender, whether the speech of judges changes as a function of the gender of the witness or attorney addressed, or whether the written opinions of judges vary by gender. Almost all of what I *have* found on gender is listed below in Section IV.C. "Miscellaneous," but it includes—to my regret—little more than three unpublished papers (two on discourse in Kenyan Muslim courts) and a mere two articles on sexist language (but see also Matoesian 1993, a gender-relevant book on courtroom discourse in rape trials, listed in Section I.E.1.). This record is especially perplexing in this season of heightened consciousness of the significance of gender in social and legal studies. Perhaps this will be the area of greatest growth in the decade just ahead.

GUIDELINES FOR USING THIS BIBLIOGRAPHY

Users of this bibliography will most readily find what they are looking for if they take full advantage of the following four features of this work: the primary outline which determines its general organization, a supplementary outline for identifying work representing specific linguistic subfields, the use of boldface to highlight significant entries in a section, and frequent intratextual editorial comments.

General organization. This bibliography is organized according to an outline of pertinent topics, which appears as the Table of Contents on page viii. Readers looking for information on a particular subject should first peruse the entire outline to understand its range and sequencing, and then consult any sections that appear likely to have entries on that subject. (It will often be wise to consult neighboring sections as well, since I have been obliged to categorize many of the entries by title alone; misleading or uninformative titles may thus have led to some inappropriate placements.)

To facilitate use of this work, any item that appeared appropriate to more than one category has been listed within *each* relevant category. In addition, cross-references are provided following selected section titles to assist the reader in identifying closely related sections.

Organization by linguistic subfields. A secondary outline, "Linguistic Subfields and the Law," reorganizes the research material according to linguistic subfields; it may be found on page x. Readers interested in finding material from one or more of those subfields should consult this secondary outline; although it does not provide entry-by-entry coding, it does attempt to indicate the general sections in which relevant material will be found. For example, readers interested in phonetics and phonology will be guided to sections on such topics as speaker identification and the "voiceprint" controversy in legal cases, and phonetic similarity in trademark infringement.

Use of boldface. In those sections with whose contents I have some degree of familiarity, I have marked one or more entries in boldface in order to indicate items of special importance; these may represent good beginning readings on that topic, readings that have (already) be-

come "classics" in the area, or readings that simply offer something that I have found exceptionally worthwhile. Please note that the *absence* of boldface will frequently indicate nothing more than my unfamiliarity with the subject or the entry.

Section introductions. Brief introductory comments have been provided within many individual sections in order to give additional guidance, historical commentary, or other observations that might be useful to the reader.

SUGGESTIONS FOR BEGINNING READINGS

There are several ways in which readers can use this bibliography to create their own beginning reading list on language and law. The first is to make judicious use of the highlighted entries in Part V. of this work, "Overviews and Collections." For example, one might consult Danet 1980 as the first major overview article to appear, along with Levi 1990 and Tiersma 1993 as two of the most recent; since the professional background of the three authors includes sociology, theoretical linguistics, and law, respectively, each overview is unique in both chronological and intellectual emphases. One might then consult a few of the books listed in boldface, including the 1963 classic by Mellinkoff and the 1990 collection edited by Levi and Walker. [See Part V. below for complete bibliographic detail.]

A second approach would be to review the outline according to which this work is organized, and to select publications (such as the highlighted ones in each section) from a wide range of topics throughout the bibliography. This approach would be the most satisfactory if one were interested in preparing a set of readings for an undergraduate course or graduate seminar, since one could thereby add some depth of coverage to the introductory breadth provided by overviews alone.

A third approach would be to use the materials listed below (comprising three overview articles, three journal issues, and many of the full-length books that have appeared in this area) as a broad-based introduction to the world of language and law.

Introduction to Language and Law Research:

Atkinson, J. Maxwell and Paul Drew. 1979. *Order in Court: The Organization of Verbal Behavior in Judicial Settings*. London: Macmillan; Atlantic Highlands, NJ: Humanities Press.

Berk-Seligson, Susan. 1990. *The Bilingual Courtroom: Court Interpreters in the Judicial Process*. Chicago: The University of Chicago Press.

Conley, John M. and William M. O'Barr. 1990. *Rules versus Relationships: The Ethnography of Legal Discourse*. Chicago: The University of Chicago Press.

Danet, Brenda. 1980. "Language in the Legal Process." *Law & Society Review* 14:3:445-564.

Levi, Judith N. 1990. "The Study of Language in the Judicial Process." Pp. 3-35 in Levi and Walker (eds.) 1990, listed just below.

Levi, Judith N. and Anne Graffam Walker (eds.). 1990. *Language in the Judicial Process*. New York: Plenum.

Mellinkoff, David. 1963. *The Language of the Law*. Boston/Toronto: Little, Brown and Company.

O'Barr, William M. 1982. *Linguistic Evidence: Language, Power, and Strategy in the Courtroom*. New York: Academic Press.

Solan, Lawrence. 1993. *The Language of Judges*. Chicago: The University of Chicago Press.

Tiersma, Peter M. 1993. "Linguistic Issues in the Law" [review article, for Levi and Walker 1990, listed above, and for Rieber and Stewart, listed below]. *Language* 69:1:113-137.

Introduction to Forensic Linguistics:

Baldwin, John and Peter French. 1990. *Forensic Phonetics*. London: Pinter.

Bryant, Margaret. 1962. *English in the Law Courts*. New York: Frederick Ungar Publishing Co. [Originally published in 1930 by Columbia University Press.]

Hollien, Harry. 1990. *The Acoustics of Crime: The New Science of Forensic Phonetics*. New York: Plenum.

Rieber, Robert W. and William A. Stewart. 1990. *The Language Scientist as Expert in the Legal Setting: Issues in Forensic Linguistics*. [Vol. 606 of the Annals of the New York Academy of Sciences.] New York: The New York Academy of Sciences.

Shuy, Roger W. 1993. *Language Crimes: The Use and Abuse of Language Evidence in the Courtroom*. Oxford: Basil Blackwell.

Special Journal Issues:

American Speech (1990) 65:4, and (1993) 68:1.

TEXT (1984) 4:1/3.

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As for the information which forms the core of this work, I am in debt to the more than 50 scholars who took the time to respond to my 1990 questionnaire, in which I inquired about their contributions to the language and law literature; and to Diana Eades (Senior Lecturer in Linguistics, University of New England-Armidale, NSW, Australia), for being my expert-on-the-spot for the Australian literature. Processing the responses to the questionnaire was facilitated by the efficient staff support I was given by the American Bar Foundation during my tenure there as Visiting Scholar in the first half of 1990. For invaluable assistance in the closing days of this project, my thanks go to Betty Birner, Robert Gundlach, and Ray Solomon, three very thoughtful colleagues who were kind enough to give me the benefit of a critical reading of the prose sections of this publication.

Finally, I would like to thank John Paul Ryan and the American Bar Association for being willing to publish this potentially unwieldy work in an accessible and reasonably affordable format.

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6. Other 31
B. Linguistic analyses of written legal language as a genre [see also IV.] 31
1. Stylistic, prosodic, and syntactic analyses 32
2. Historical analyses 32
3. Semiotic analyses [see IV.B.] 32
4. Other 32
C. Legal drafting 33
D. Problems in interpretation of legal documents 34
1. Syntactic ambiguity 34
2. Meanings of individual words and phrases 34
3. Other problems (including pragmatic issues) 34
E. Other 35

IV. OTHER CATEGORIES 36
A. Speech act analyses 36
B. Semiotic analyses 36
C. Miscellaneous 37

V. OVERVIEWS AND COLLECTIONS 39

VI. FORENSIC LINGUISTICS 40
[see also II.A.5., II.B.1., II.B.3., II.B.4., and II.E.2.]

OUTLINE II:

LINGUISTIC SUBFIELDS AND THE LAW

	See entries in bibliography under:
A. PHONETICS AND PHONOLOGY	
1. Speech differences (e.g., in dialect and style) and social evaluation in court	I.C.
2. Voice identification by machines and by humans	II.B.3.
3. Forensic dialectology	II.B.3.a., VI.
4. Trademark infringement through phonetic similarity	II.C.1.a.
B. MORPHOLOGY AND SYNTAX	
1. Syntax and comprehension	
a. Comprehensibility of jury instructions	I.B.
b. Comprehensibility of Miranda rights (for non-native speakers of English)	II.A.3.a.
c. Comprehensibility of written legal language	III.A.
d. Interpreting ambiguity in written legal language	III.D.1.
2. Courtroom questioning: forms and functions	I.D.3.
3. The Plain English movement and readability formulas	III.A.1-2.
4. Morphosyntactic features of written legal language	III.B.1.
C. SEMANTICS AND PRAGMATICS	
1. Comprehensibility issues	
a. Jury instructions	I.B.
b. Miranda rights (for non-native speakers of English)	II.A.3.a.
c. Written legal language	III.A.
2. Semantic and pragmatic issues in courtroom speech	I.E.
3. Effects of language on eyewitness memory	I.D.
4. Language issues in consumer protection	II.C.
a. Regulation of advertising language	II.C.1.
b. Consumer safety and product labeling language	II.C.2.
5. Protected vs. generic terms in trademark law	II.C.1.a.
6. Free speech, symbolic speech, and the First Amendment	II.D.
7. Judicial notions of linguistic authority for meaning	II.E.
8. Speech act analyses	IV.A.
a. Definitions of verbal offenses (e.g., defamation)	II.B.2.
b. Application to written legal language	IV.A.
9. Lexical semantic analysis of litigated terms	VI.
10. Sentential semantic analysis of litigated texts (e.g., in contracts)	VI.
11. Pragmatics in interpretation of written legal language	III.B.4., III.D.3., III.E., IV.A.
D. DISCOURSE ANALYSIS (INCLUDING CONVERSATIONAL ANALYSIS)	
1. Discourse analysis of speech in legal settings	
a. Storytelling as a model of courtroom testimony	I.F.1.
b. Analyses of genres of courtroom speech	I.F.2.
c. Plea bargaining	I.H.
d. Lawyer-client discourse	I.I.
e. Lawyer-lawyer discourse	I.J.
2. Court reporting and verbatim transcription	I.G.
3. Comprehensibility issues	
a. Jury instructions	I.B.
b. Miranda rights for non-native speakers	II.A.3.a.
c. Written legal language	III.A.
4. Analysis of taped conversations as criminal evidence	II.B.1.
5. Author identification in legal cases (e.g., for written threats, disputed wills, or alleged confessions)	II.B.4.
6. Admissibility of discourse analysis in expert testimony	II.E.2.
7. Discourse analysis of written legal language	III.B., IV.B.

E. SOCIOLINGUISTICS

1. Communicative competence in legal settings ..... I.E.2.
2. Crosscultural communication issues in legal settings ..... II.A.7.
3. Speech vs. writing: "verbatim" court reporting ..... I.G.
4. Language variation and social evaluation in court ..... I.C.
5. Lawyer-client and lawyer-lawyer interactions ..... I.I., I.J.
6. "Professional languages": a social issue ..... I.K., III.B.4., III.D.3., III.E., IV.C.
7. Linguistic minorities and the law ..... II.A.
   a. Rights in public education ..... II.A.2.
   b. Rights in legal proceedings ..... II.A.3.
   c. Black English and the law ..... II.A.2.b.
   d. Language proficiency assessment in legal cases ..... II.A.5.
   e. Court interpreting and bilingual courtrooms ..... II.A.3.b., II.A.6.
   f. The English-Only movement ..... II.A.8.
8. Forensic dialectology (historical and synchronic) ..... II.B.3.a.
9. Judicial notions of linguistic authority ..... II.E.

F. PSYCHOLINGUISTICS

1. Psychology of memory and eyewitness testimony ..... I.D.
2. Social psychology and language variation in court ..... I.C.
3. Psychology of comprehension of legal language
   a. Jury instructions ..... I.B.
   b. Miranda rights for non-native speakers of English ..... II.A.3.a.
   c. Written legal language ..... III.A.
4. Psycholinguistic analyses in legal cases concerning disputed authorship of a text ..... VI.

JOURNALS RELEVANT TO LAW AND LANGUAGE

This list is offered to assist the reader in locating social science journals which are likely to publish (at least occasionally) articles on language and law. Like the bibliography, the list represents primarily U.S. publications, although a number of others from countries following the Anglo-American legal tradition have been included as well. This list does not include law reviews and other publications intended primarily for legal practitioners, nor journals from the field of communication studies/speech communication.

Australian Journal of Law and Society
Behavioral Sciences & the Law
Bulletin of the International Association for the Semiotics of Law
Canadian Journal of Law and Society
Columbia Journal of Law and Society
Discourse & Society: An International Journal for the Study of Discourse and Communication in their Social, Political and Cultural Contexts
Forensic Linguistics: The International Journal of Language and the Law [Routledge, to begin in 1994]
Forensic Reports
International Journal for the Semiotics of Law [U.K.]
International Journal of Law and Society
International Journal of the Sociology of Law
Journal of Language and Social Psychology
Journal of Law and Society [Formerly: British Journal of Law and Society]
Journal of Legal Studies
Judicature [Formerly: Journal of the American Judicature Society]
Jurimetrics Journal
Justice System Journal
Language in Society
Law and Contemporary Problems
Law and Critique: A Journal of Critical Legal Studies [U.K.]
Law and Human Behavior
Law and Policy Review
Law and Psychology Review
Law and Social Identity
Law & Social Inquiry: Journal of the American Bar Foundation
Law and Social Problems
Law & Society Review: The Journal of the Law and Society Association
Law in Context
Legal Studies Forum
New York University Review of Law and Social Change
Social & Legal Studies: An International Journal
Research in Law and Sociology
Research on Language and Social Interaction
Windsor Yearbook of Access to Justice [Faculty of Law, University of Windsor, Windsor, Ontario]

I. SPOKEN LANGUAGE IN LEGAL SETTINGS

When both laypeople and academic colleagues hear that my research focuses on language and law, they most frequently assume that I am working on that perennial and perplexing problem of legalese: the tortured (and torturing) prose of legal practitioners. Public awareness of the problems of *written* legal language is thus quite widespread, but public—or even scholarly—awareness of the significance of *spoken* legal language, and spoken language in legal contexts, is still close to nil (outside the set of the predictable readers of this work).

Nevertheless, as this bibliography shows, the major category that has drawn the largest share of scholarly attention throughout the last two decades is just this one on spoken language in the legal arena. Although studies in this area were initially focused on the nature of formal courtroom discourse (i.e., speech used in the trial process), research has more recently expanded to include the analysis of speech in other contexts as well, such as lawyer-client conversations in the lawyer's office (Section I.I. below) and the informal negotiations constituting plea bargaining (Section I.H.).

This is a welcome development since, as noted in the Introduction, the amount of scholarly attention devoted to different kinds of "law talk" (that is, spoken language in legal settings) is regrettably in inverse proportion to their actual distribution in the conduct of legal affairs. The vast majority of civil cases are *not* handled in courtrooms but in lawyers' offices, while the vast majority of criminal cases (of those that do not simply get dismissed) are settled through the negotiating process of plea bargaining (as sociologist Douglas Maynard has repeatedly emphasized in his writings [see Section I.H. below]). As a result, one might expect that discourse analysts interested in legal discourse would be focusing on *these* interactions, involving conversations among legal professionals and conversations between lawyers and their clients. Such an expectation would, however, be confounded by the fact that the number of studies of such conversations is still very small, and the number of researchers working on them even smaller.

Whether focused on spoken language in the courtroom or spoken language in other legal settings, the research reported below represents a wide range of topics, disciplines, and methodological approaches—whose diversity nevertheless converges on the intrinsically fascinating question of: How does the multidimensional linguistic phenomenon that is live spoken language interact with, and influence, the multidimensional social phenomenon that is our judicial system?

I. A. GENERAL [SEE ALSO V. FOR OVERVIEWS]

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Walker, Anne Grattam. 1987. "Linguistic Manipulation, Power, and the Legal Setting," in Leah Kedar (ed.) *Power Through Discourse*. Norwood, NJ: Ablex. Pp. 57-80.

I. B. COMPREHENSIBILITY OF JURY INSTRUCTIONS

This topic appears to be one of the few whose empirical results would be relatively easy to apply to actual judicial practice, given the fact that judges and attorneys use previously prepared "pattern jury instructions" in a great many trials. It is these pattern instructions which could be changed, with relative ease and rather low cost, to reflect the discoveries of social science research on how badly they are written, how poorly they are understood, and yet how easily they could be improved. Nevertheless, they seldom are so changed. Steele and Thornburg 1988 and Tanford 1991 provide two recent analyses of why they are not; Levi 1993 reports on one legal case that shows the life-and-death consequences of this discrepancy between knowledge available (on how to improve jury instructions) and knowledge applied.

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Hastie, Reid, S. Penrod, and Nancy Pennington. 1983. *Inside the Jury*. Cambridge, MA: Harvard.

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I. C. EFFECTS OF LANGUAGE VARIATION IN THE COURTROOM [SEE ALSO II.A.6. ON BILINGUAL ISSUES]

This topic was introduced into the law and language domain in the 1970's by the pioneering Duke University Law and Language Project, directed by anthropologist William M. O'Barr and staffed by an interdisciplinary team of social scientists and lawyers. Extending previous research on how a listener's social judgments of a speaker are influenced by such speech variables as dialect, presentational style, and gender, the researchers investigated how such judgments might influence witness credibility in a trial setting. A concise introduction to their findings may be found in Lind and O'Barr (1979), while O'Barr's 1982 book, *Linguistic Evidence*, provides a more comprehensive report. [See below for details on these sources.] The research listed in Section I.C.4. ("Related Research on Speech-based Social Judgments") is provided as further background for the broader issues in this area, although it is *not* courtroom-based or law-oriented.

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I. C. 3. VARIATION AND ATTORNEY EFFECTIVENESS

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I. C. 4. RELATED RESEARCH ON SPEECH-BASED SOCIAL JUDGMENTS

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I. D. EFFECTS OF LANGUAGE ON EYEWITNESS MEMORY

The leading researcher in this area is indisputably Elizabeth F. Loftus, Professor of Psychology at the University of Washington; her 1979 book, *Eyewitness Testimony*, is the classic on this subject. (See also her numerous articles and the later book she co-authored with James Doyle, *Eyewitness Testimony: Civil and Criminal*.) By applying many decades of psychological research on memory to the legal context, Loftus and her colleagues (among others) have drawn attention to the troubling paradox that although eyewitness testimony is accorded tremendous credibility by juries, the psychological evidence available demonstrates that it is remarkably malleable and thus ultimately quite fallible. The literature in this section thus includes research on a wide range of factors, both linguistic and nonlinguistic, which can influence the accuracy of eyewitness recollections.

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I. E. SEMANTIC AND PRAGMATIC ISSUES IN COURTROOM SPEECH

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I. E. 3. OTHER [SEE ALSO II.A.6.]

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I. G. COURT REPORTING AND VERBATIM TRANSCRIPTION

The work below by Anne Graffam Walker, a sociolinguist with extensive prior experience as a court reporter, is unique in applying sociolinguistic analysis in order to provide insights into the complexities—and legal implications—of the court reporter's customary but impossible assignment: to prepare a "verbatim" transcript by transforming a multifaceted speech event of tremendous social import into the black-and-white court record. (Note that the court reporter's skills are used not only in formal courtroom proceedings but also in less formal settings, such as the taking of depositions.) Scholars and others interested in the contrasts between spoken and written language, and the social consequences thereof, will find this work of special value.

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I. H. DISCOURSE OF PLEA BARGAINING

Douglas Maynard, sociologist at the University of Indiana, appears to be the only scholar carrying out extensive research on the language of plea bargaining. In addition to the *linguistic* value of his analyses of informal interactive language, his research draws its special *legal* significance from the fact that 90% of criminal court cases which are not "dismissed as a matter of judgment" are settled through the plea bargaining process. As a result, Maynard emphasizes, our understanding of the role of language in the judicial process will remain hopelessly skewed if almost all scholarly work on spoken language in legal contexts remains restricted to the language of trial proceedings in formal courtrooms while ignoring the uses of language in alternative processes such as plea bargaining—an imbalance his own work attempts to redress.

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I. I. LAWYER-CLIENT DISCOURSE IN LAWYER'S OFFICE

While Danet, Hoffman, and Kermish 1980 explores the not insignificant difficulties of conducting empirical research on lawyer-client interactions, the string of subsequent publications by legal scholar William L. F. Felstiner and political scientist Austin Sarat demonstrates how fruitful this domain can be for scholarly exploration once logistical and other problems are overcome. As noted in the Introduction, this demonstration is especially critical in light of the fact that research to date on "law talk" has focused very narrowly on the public discourse of the courtroom while ignoring almost totally the private discourse which constitutes a much larger proportion of all law talk, namely, lawyer-client interactions. We cannot hope to fully understand the sociolegal phenomena surrounding, and constituting, our legal system unless this

disproportionate allocation of scholarly resources is at least somewhat redressed.

In this context, Clark D. Cunningham (1989, 1990) introduces a rather different and intriguing angle to the subject by proposing that the metaphor of "translation" can illumine the nature of lawyer-client discourse, and thereby enhance its effectiveness for all participants. [Note that translation also serves as an organizing theme in the rather different work of another law professor, James Boyd White, in his *Justice as Translation: An Essay in Cultural and Legal Criticism*, Chicago: University of Chicago Press, 1990.]

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I. J. DISCOURSE AMONG LAWYERS

While the written language of lawyers has drawn extensive scholarly (and other) attention for centuries, it appears that the spoken language of lawyers when amongst themselves (e.g., in discussing clients, in critiquing a colleague's brief, in debating legal strategy, or in struggling to frame in legal terms the case brought in by the client) has not yet caught the attention of social science researchers beyond these few studies, all relatively early. This is somewhat surprising since the same technological advances that made microanalysis of courtroom discourse possible could be used just as profitably in studying the patterns and implications of discourse among lawyers. Whether the absence of more research in this area is due to researcher indifference, institutional barriers, or other logistical obstacles remains obscure.

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I. K. OTHER

This category is, naturally, a diverse one, encompassing scholarly investigations of such events as mediation and arbitration, police interviews, law school instruction, proceedings in small claims courts, and questioning of jurors (in the voir dire) and of child witnesses. One recurring theme, however, is "the language of judges"; for this subject, the interested reader is directed to Fontaine and Emily 1978, Wodak 1985, and a string of publications by anthropologist Susan Philips of the University of Arizona (specifically, 1979, 1985 "Strategies," 1990, and In Preparation). [The reader is warned that the apparently related work, *The Language of Judges* by Lawrence Solan (The University of Chicago Press, 1993), does *not* describe the spoken language of judges in courtrooms; its focus is rather on judicial opinions expressed *about* language and thus appears elsewhere in this bibliography, e.g., in Sections II.E., III.A., and III.D.

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II. LANGUAGE AS A SUBJECT OF THE LAW

II. A. THE LAW AND LINGUISTIC MINORITIES

The category of "linguistic minorities" intended here includes speakers of other languages who have limited or no proficiency in English, speakers of nonstandard English dialects, and/or the deaf and hearing-impaired.

Judging from the number of entries alone, the research output on the subject of linguistic minorities and the law appears to have *quadrupled* in the last decade. Two topics which have drawn considerable attention during that period, and which have been given sections of their own below, are the English-Only movement (Section II.A.8.) and the rights of Black English speakers in public education (Section II.A.2.b.). (In principle, the problems raised in the latter section could be experienced by speakers of other nonstandard dialects, but the current research focuses almost exclusively on the ramifications of a 1978 trial in Ann Arbor, Michigan, brought against the Ann Arbor School Board by parents of schoolchildren who were speakers of a Black English dialect.)

Regrettably, the entries that follow include very little on the language problems faced by the deaf and the hearing-impaired, and almost nothing on the special linguistic and cultural problems faced in legal settings by Native Americans (with the exception of Morrow 1992 [in Sections II.A.3. and II.A.7.] and Gumperz and Perry 1990 [in Section II.A.7.], both unpublished). On the other hand, readers interested in crosslinguistic and crosscultural issues for aboriginal peoples in legal contexts will find quite a few relevant articles by Australian scholars (including Diana Eades and John Gibbons) in the various sections below, as well as in Part VI. on forensic linguistics.

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II. A. 6. EFFECTS OF COURT INTERPRETING ON LEGAL PROCEEDINGS

Sociolinguist Susan Berk-Seligson of the University of Pittsburgh is, I believe, the only scholar in the country to have studied court interpretation (primarily Spanish-English) on a long-range basis. Like Anne Graffam Walker's work on court reporting (see Section I.G. above), Berk-Seligson's studies serve to remind us that our understanding of the role of language in the judicial process will remain incomplete as long as we ignore the effects of those two sets of courtroom actors whom "the system" would prefer to treat as invisible, insignificant, and merely mechanical servants of the court, namely, court reporters and court interpreters.

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II A. 8. THE ENGLISH-ONLY MOVEMENT

This topic has been attracting increasing attention in both the scholarly and the popular press in recent years. The highlighted entries below provide not only useful and broad-based reviews of the relevant history and issues, but also fairly extensive bibliographic listings of their own (q.v.). Note also that while a number of law review articles are included below, many additional references may be found by consulting the *Index to Legal Periodicals*.

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II. B. LANGUAGE ON TRIAL: LINGUISTIC OFFENSES

II. B. 1. TAPED CONVERSATIONS AS CRIMINAL EVIDENCE

A perusal of this section will reveal that linguist Roger Shuy of Georgetown University is the most widely published on this topic; this is not unrelated to the fact that he is certainly the linguist with the most experience in testifying for the defense in those criminal cases whose central evidence consists of surreptitiously recorded conversations of potentially incriminating language. The interested reader may wish to begin by considering the wide range of cases reported in Shuy's 1993 book, *Language Crimes: The Use and Abuse of Language Evidence in the Courtroom*, or by consulting Shuy 1987, a very helpful summary of some of the critical issues Shuy has uncovered through his extensive forensic experience.

The reader's attention is also drawn to studies by two other linguists with courtroom experience in this domain: Georgia Green (University of Illinois) and Ellen Prince (University of Pennsylvania). Prince 1990 focuses on two major weaknesses (poor transcription quality and fallacious reasoning from the data) in criminal prosecutions of this sort, while Green 1990 emphasizes both the linguistic dimensions of conversational analysis and the legal issues surrounding its admissibility in court--a subject addressed even more extensively in Wallace 1986.

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II. B. 2. LINGUISTIC OFFENSES: DEFINITIONS [SEE ALSO IV.A.]

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of verbal offenses. What clearer target could there be for linguistic scrutiny by speech act theorists than those speech sequences which are recognized not only as socially and politically significant categories (such as perjury, libel, or threats to the life of the President) but also as actionable ones? Nevertheless, the quantity of research on this subject has remained quite small over the last two decades—even though the number of speech act analyses of legal language as a whole has risen significantly (as may be seen from the entries in Section IV.A. below, which represent speech act analyses of every type).

We may also note that recent attention to the role of language in sexual harassment and in hate crimes (i.e., the use of "hateful speech") suggests two more kinds of linguistic offenses that may well attract more scholarly scrutiny in the near future. (In this connection, see also Section II.D. on speech and the First Amendment.)

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II. B. 3. c. FORENSIC USE OF ASSESSMENTS OF LANGUAGE PROFICIENCY [SEE II.A.5.]

II. B. 4. AUTHOR IDENTIFICATION IN LEGAL CASES (e.g., FOR WRITTEN THREATS, ANONYMOUS LIBELOUS PROSE, DISPUTED WILLS, ALLEGED CONFESSIONS)

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II. C. LANGUAGE ISSUES IN CONSUMER PROTECTION

II. C. 1. REGULATION OF ADVERTISING LANGUAGE

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II. C. 1. a. TRADEMARKS AND COPYRIGHT INFRINGEMENT

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II. C. 1. c. OTHER

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II. C. 2. REGULATION OF LANGUAGE ON CONSUMER PRODUCTS

II. C. 2. a. PACKAGE INSERT WORDING

An invitation to consult on a case involving whether the wording of the package insert for an oral contraceptive provided adequate warning of its potential dangers once reminded me of just how important such an analysis could be in national litigation. However, despite the potential sociolegal significance of this domain, I have come across only two references (of which only one is from the social science literature) dealing with the language of package inserts specifically. The reader is thus advised to consult the medical literature (and perhaps the legal literature on products liability) for additional references; some entries in the section on safety and warning labels just below may also be relevant here.

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II. C. 2. b. SAFETY AND WARNING LABELS ON PRODUCTS

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II. C. 3. LANGUAGE IN CONSUMER CONTRACTS [SEE III.A.3.]

II. C. 4. INFORMED CONSENT (e.g., CONSENT FORMS, RETAINER AGREEMENTS)

The subject of informed consent, like the earlier topics of warning language on consumer products and in package inserts (e.g., for drugs or contraceptive devices), brings us closer to the interdisciplinary specialty generally known as "medical communication" or "language and medicine." One consequence is that the reader should look for additional references on this subject in indices to the medical literature, as well as in indices to the research in communication studies; the entries here are provided primarily as a short beginning list.

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II. D. FREE SPEECH, SYMBOLIC SPEECH, AND THE FIRST AMENDMENT

Although the subject of symbolic speech and First Amendment law is one which we might expect to fasci-

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nate linguists, given the challenge that arises in trying to distinguish speech from conduct, nevertheless there appears to be little available written by linguists, except for Tiersma 1992 and Tiersma 1993. This is in dramatic contrast to the vast body of literature on First Amendment Law written by and for legal professionals; for references from that collection, the reader is advised to consult *Index to Legal Periodicals*.

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Tiersma, Peter M. 1993. "Nonverbal Communication and the Freedom of 'Speech.' " *Wisconsin Law Review* 1993:6.

II. E. JUDICIAL NOTIONS OF LINGUISTIC AUTHORITY

This topic originally found its way into the outline because it evokes the question I first asked myself after my 1978 debut as an expert witness had piqued my curiosity about the interrelationships between law and language. That question was: "How *do* lawyers and judges resolve the innumerable linguistic disputes that come their way—since we *know* they do not normally turn to linguists for guidance . . ." This desire to find out more about judicial approaches to language disputes bore its first fruit in the form of the 1982 bibliography which is the predecessor to this one.

My explorations at the time first led me to Margaret Bryant's book of wonders: *English in the Law Courts*, a 1930 doctoral study of legal cases whose decisions hinged upon judicial interpretation of those pesky "little words": articles, prepositions, and conjunctions. Since Bryant had drawn her data from *Words and Phrases*, that reference work (listed below in Section II.E.1.) then became my second resource and teacher in this area. Newcomers to the domain of language and law will find much of interest in both Bryant and her source of data.

A more recent, and far more sophisticated, approach to the subject of judicial approaches to linguistic analysis can be found in the creative work of Lawrence Solan, a theoretical linguist turned lawyer, who demonstrates in revealing detail just how a person trained in both legal and linguistic theory can illuminate the critical question of how judges have approached the dilemmas of language disputes—and what the legal consequences have been. For this unique perspective, see especially Solan's 1993 book, *The Language of Judges* (listed below in Section II.E.1.).

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II. E. 2. ADMISSIBILITY OF EXPERT TESTIMONY BY LINGUISTS [SEE ALSO VI.]

As more and more linguists and other social scientists are called upon to serve as expert witnesses in legal cases (see Section VI. below for published reports thereof), the issue of admissibility of linguistic testimony arises with increasing frequency. Because so many judges, like so many laypeople, are unfamiliar with the field of linguistics, and because of the legal tradition that language "is [solely] the province of the court," linguists with relevant expertise are not always permitted to testify. One reason for this is that neither the linguists nor the lawyers are always certain of how best to make the arguments in

support of their belief that the judge should at least hear what linguistic expertise has to offer in cases of disputed language.

Both Wallace 1986 and Green 1990 (listed below) address the issue of admissibility of linguistic testimony, although they have confined their attention to the admissibility of linguistic testimony about discourse analysis and/or conversational analysis alone. To my knowledge, there is not yet any publication which extends the discussion to the field of linguistics as a whole.

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III. THE WRITTEN LANGUAGE OF THE LAW

It is perhaps ironic that this category, which is the one most laypeople associate with "language and law," apparently corresponds to the *smallest* amount of scholarly analysis of the three major categories (corresponding to Parts I., II., and III.) in this bibliography; in fact, it has only about half as many entries as either Part I. on "Spoken Language in Legal Settings" or Part II. on "Language as a Subject of the Law." One can only wonder why the subject that arguably gives more people more anguish than any other in this domain (and here I am referring to the torture of legalese) is the one that social scientists appear to have studied least.

III. A. COMPREHENSIBILITY OF WRITTEN LEGAL LANGUAGE

When I first approached this subject, I benefitted greatly from the publications of the research staff of the Document Design Center (of the American Institutes for Research) in Washington, D.C. Their contributions may be found below, especially following these authors' names: Veda Charrow, Daniel Felker, V. Melissa Holland, and Janice Redish. I learned a lot from their writings, which I have also used very profitably in my undergraduate classes on language and law.

One subject that is unfortunately not addressed in the references below (with the exception of one unpublished paper by Rodriguez from 1980) is crosscultural issues in the use of written language. Much of mainstream American society is heavily dependent on written language and written records, but not all subcultures are equally involved in creating and maintaining such records. Thus, requests by governmental agencies (e.g., the Social Security Administration or the I.R.S.) and other institutions (e.g., banks and schools) that citizens furnish extensive written documentation in order to qualify for benefits of various kinds may well have a significant impact on whether all groups within our society enjoy equal access to the benefits in question. (A recent case of this sort, described in the New York *Times*, involved Navajos who were in principle eligible for government compensation for illnesses contracted while mining uranium for the government, but who did not always have the relevant documentation required by the law in order to qualify for the benefits.) Note that comparable concerns in regard to crosscultural communication via spoken language are addressed in Section II.A.7. above.

III. A. 1. WHAT IS AND WHAT IS NOT "PLAIN ENGLISH"

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III. B. LINGUISTIC ANALYSES OF WRITTEN LEGAL LANGUAGE AS A GENRE [SEE ALSO IV.]

For about two decades, David Mellinkoff's 1963 book, *The Language of the Law*, stood alone as the classic refer-

ence on this subject; there simply was nothing else available that came close to his analysis of the nature, history, and use of (written) legal language. And now that the field of language and law has evolved as rapidly and as multifariously as it has, Mellinkoff 1963 still stands alone as the classical reference on this subject. Even his later manual on clear legal drafting, *Legal Writing: Sense and Nonsense* (1982, listed below in Section III.C.), instructive and entertaining as it is, does not replace the scholarship found in that earlier work. I commend both works to every reader of this bibliography.

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III. C. LEGAL DRAFTING

Just as the problems of intolerable and incomprehensible legalese will, I fear, always be with us, so each year brings yet another intrepid author who believes that he or she has just the system, and just the right strategies, for curing this perennial source of irritation and consternation. I commend their pedagogical optimism, yet I confess I cannot share it: just look at how many entries are in this section alone! However noble the intent of these authors of manuals for improving legal writing, I am afraid that their efforts are like giving a hummingbird's dose of an admirable medicine to a reluctant mammoth. [Note that Gopen and Smout 1990, and Kolin and Marquardt 1986, listed below, each constitute a still lengthier bibliography on this subject—to which the as yet undaunted reader is referred.]

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IV. OTHER CATEGORIES

IV. A. SPEECH ACT ANALYSES

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V. OVERVIEWS AND COLLECTIONS

Of the many overview articles listed below, Danet 1980 contributed most to my own early learning about language and law. Following this lengthy and pioneering introduction to the domain of language and law, the number of overviews published has expanded, appropriately enough, along with the field. The latest of these, both by Tiersma (1993) have the unique advantage of having been authored by a law professor with a Ph.D. in linguistics. Of my own contributions, Levi 1986 is the only one directed primarily to an audience of linguists, while Levi 1989 and Levi 1990 are both intended as introductions to the relevant research for interdisciplinary audiences without significant linguistic training.

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VI. FORENSIC LINGUISTICS [SEE ALSO II.A.5., II.B.1., II.B.3., II.B.4., II.E.2.]

In contrast to its invisibility in my 1982 bibliography, this section has—rather to my amazement—some 100 entries (not counting the additional material in the related sections cited just above). The vast majority have appeared in just the last decade, and half are so new as to have publication dates of 1990 or later. This flowering of published reports on actual trial work by linguists and other language scientists appears to reflect the slow but steady increase in the use in courtroom trials of social science evidence about language, not only in this country but also in Europe (especially in the U.K. and Germany) and Australia.

Moreover, the subject of "forensic linguistics" has already achieved sufficient prominence to have inspired three completed books (Baldwin and French 1990, Hollien 1990, and Shuy 1993), two published collections (Kniffke 1990 in Germany, and Rieber and Stewart 1990 in the U.S.), and at least three more collections on the way (Gibbons in press and Eades in preparation, both with a largely but not exclusively Australian focus; and Butters in progress).

For a long time the best-known examples of linguistic testimony in legal cases were the contributions of Roger Shuy, whose many analyses of surreptitiously recorded conversations carried out for the defense in criminal trials are listed separately below (and have been gathered together most recently in Shuy 1993). What has changed in recent years is both the number of scholars who have served as language experts in actual trials, and the range of linguistic subfields represented in their testimony. The listings below reveal that the most frequently reported (which does not necessarily mean the most frequently occurring) applications of linguistic and other social science expertise on language do center on the analysis of taped conversations (22 entries below, many though not all of which are by Shuy), but significant numbers of entries also reflect:

(a) the use of phonetics and phonology in cases involving speaker/voice identification, and

(b) problems encountered by linguistic and cultural minorities (including speakers of Black English in this country, of French in Canada, and of Aboriginal English in Australia).

As a linguist, I have been intrigued to discover that virtually all subfields of linguistics have been applied in legal cases, from historical dialectology to theoretical syntax, and from acoustic phonetics to psycholinguistics and pragmatics. The record thus demonstrates that at least some lawyers, and some courts, are beginning to discover the variety of ways in which linguistics (and related social sciences) can offer something of value to the triers of fact in cases involving the use and interpretation of human language. (See Levi 1993 for a summary of this now strikingly diverse forensic track record in North America, and Eades 1990 for the less diverse but very intriguing Australian experience.)

Because this field of forensic linguistics is still relatively new, and because increasing numbers of language scholars are serving as expert witnesses for the first time, I have included a small number of articles relating to academics serving as expert witnesses, even though none of these focuses on testimony about language per se.

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